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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.Nos. (1) OA 1103 of 1989 &
(2) OA 1653 of 1989

Date of decision: 5.3.1991.

(1) OA 1103/1989

Shri Narinder Singh & Another ...Applicants

Vs.

Delhi Administration through
Commissioner of Police & Another ...Respondents

(2) OA 1653/1989

Shri Ved Pal & Others ...Applicants

Vs.

Delhi Administration through
Commissioner of Police & Another ...Respondents

For the Applicants in (1) & (2) ...Shri Mukul Talwar,
above Counsel

For the Respondents in (1) above ...Ms. Ashoka Jain,
Counsel

For the Respondents in (2) above ...Shri Dinesh Kumar,
Counsel

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN (J)

THE HON'BLE MR. D.K. CHAKRAVORTY, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *Yes*

JUDGMENT

(of the Bench delivered by Hon'ble Mr. P.K. Kartha,
Vice Chairman(J))

The applicants are working as Constables in the
Delhi Police. As common questions of law have been raised
in these applications, it is proposed to dispose them of by

a

a common judgment.

2. The reliefs sought by the applicants are that the respondents be directed to bring their names on promotion list 'A', that they be promoted to the post of Head Constables on the successful completion of the Lower School Course and that the amendment to Rule 12 of the Delhi Police(Promotion & Confirmation) Rules, 1980, would also be applicable to them who have passed the drill instructor's course with first class proficiency certificate even prior to the amendment.

3. The Tribunal has passed ^{interim orders} in both these applications directing the respondents to provisionally allow the applicants to undergo the Lower School Course. Pursuant to this, they have undergone the course successfully.

4. The only question arising for consideration relates to the ambit and scope of Rule 12(b) of the Delhi Police(Promotion & Confirmation) Rules, 1980, as amended in 1986. Rule 12(b) reads as follows:-

"Rule 12(b) : Constables with a minimum of 2 years of service shall be eligible to undergo the Drill Instructors course. On satisfactory completion of the course with 1st class proficiency certificate, their names shall be brought on promotion list 'A' and sent for training in the next lower school training course irrespective of their seniority."

5. The applicants have contended that though the aforesaid amendment is prospective in its operation, it applies to them even though they had completed satisfactorily the Drill Instructors Course with first class proficiency certificate before the amendment came into force in 1986. This is being disputed by the respondents.

6. We have gone through the records of the case and have considered the rival contentions.

Promotion from the rank of Constable to Head Constable

is made under Rule 12 of Delhi Police (Promotion

and Confirmation) Rules, 1980. Prior to the coming

into force of the Delhi Police Act, 1978 and the rules

framed thereunder, the promotions were made under the

Punjab Police Rules, 1934 framed under the Police Act,

1861.

7. Rule 12 of the Delhi Police (Promotion and

Confirmation) Rule, 1980 is quoted below:-

"Rule 12(a) : Promotion list 'A' (Executive) shall be a list of Confirmed Constables (Executive) considered fit for being sent to Lower School Course. Confirmed Constables having a minimum of 5 years service shall be eligible for consideration. The list shall be framed on the recommendations of the departmental promotion committee which shall adopt the evaluation system based on
(1) service record (2) Seniority
(3) Annual Confidential Reports
(4) acquittance in professional test

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which shall cover following subject:-

- (i) Physical Training and Parade.
- (ii) Elementary law and police practical work.
- (iii) General knowledge.
- (iv) Professional work done.

A constable upto 40 years of age shall be eligible to take and only ten chances will be allowed. The names of selected constables shall be brought on list 'A' in order of their seniority keeping in view the number of vacancies in the rank of Head Constables likely to be available the following one year.

(b) Constable who passes Drill Instructors' course securing first class shall be exempted from written tests and for purposes of evaluation shall be deemed to have secured 75% marks*.

8. Thus, under Rule 12(a), only those constables who

fulfilled the following six conditions were sent for the

'Lower School Training Course', namely (1) minimum 5 years experience, (2) good service record (3) seniority (4) favourable ACRs (5) acquittance in the proficiency test including the written test and (6) maximum age of 40 years.

8A. Rule 12(b) however, creates a special category of constables who have passed a special test (i.e.

Drill Instructors course) with 1st class proficiency certificate. These constables were exempted from the first condition of minimum 5 years experience and were also exempted from appearing in the written test.

These constables were, however, to be finally selected

after passing the out door test on the basis of their service record, ACh's etc.

9. After 1.10.1986, Constables who had passed the Drill Instructors test with a 1st Class proficiency certificate were to be automatically brought on to list 'A' and sent for the very next course irrespective of their seniority.

10. The applicants in OA 1103/89 appeared for the Drill Instructors course held from 5.5.1985 and passed the same with 1st Class in December, 1985. The result was declared vide letter dated 13th January, 1986.

11. During the period from 13.1.1986 to 1.10.1986 no tests or selections were made to prepare list 'A'. The present applicants, therefore, could not be sent for the lower school course. However, ad hoc promotions to the post of Head Constable were made and applicant No.2 in OA 1103/89 was promoted to the post of a Drill Instructor. Applicant No.2 taught and imparted training to those constables who had opted for the Drill Instructors course.

12. Similarly, applicants 1 to 3 in OA 1653/89 appeared for the Drill Instructors course held from 1.10.1984 and passed the same with 1st Class in May, 1985. The result was declared vide letter dated 20th May, 1985.

12A. During the period from 20.5.1985 to 1.10.86

no tests or selections were made to prepare list 'A'.

The present applicants, therefore, could not be sent

for the lower school course. However, ad hoc

promotions to the post of Head Constables were made

and applicants were promoted to the post of H.C. Drill

Instructors with effect from 20.10.1986. Applicants

1 to 3 taught and imparted training to those

constables who had opted for the Drill Instructors

course and also to fresh recruits.

The applicants have contended that as per

the amended Rule 12, those who have passed the Drill

Instructors course in 1st Class should have been

automatically brought on list 'A' and they should

have been sent for the next lower school course

immediately. However, neither the applicants herein,

nor the other constables who had passed the Drill

Instructors course along with the applicants were

brought on list 'A' and consequently they were not

sent for the lower school course. Till date the

applicants have not been brought on to list 'A' and

have not been sent for the lower school course. The

respondents have sent junior constables for the lower

school course but have withheld the names of the

applicants.

14. The applicants have contended that those very junior constables who were taught and trained by the applicants have been brought onto list 'A' and sent for the lower school course whereas the applicants, who had passed the Drill Instructors course ^{with 1st class} ~~one year~~ before these junior constables, have not even been brought onto list 'A'.

15. The amendment to Rule 12(b) of the Delhi Police (Promotion & Confirmation) Rules, 1980, came into force with effect from 1.10.1986. It has only prospective operation. The applicants had already successfully undergone the Drill Instructors Course with first class proficiency certificate before the coming into force of the amendment. The amended Rule 12(b) does not expressly state that the benefit conferred by it would apply only to the constables who satisfactorily complete the Drill Instructors Course with first class proficiency certificate after the coming into force of the amendment and that those who have completed the course earlier will be denied the same benefit. The reason for this is quite obvious. Such a classification would ^{not} have been reasonable within the meaning of Article 14 of the Constitution. The content of the Drill Instructors Course prior to and after the amendment of Rule 12(b) being the same,

neither law nor equity would support the contention of the respondents that the benefit of the amendment would be available only to those who undergo the Drill Instructors Course after the coming into force of the amendment.

16. Apart from the above, when a beneficial provision like the amended Rule 12(b) is susceptible of two interpretations, the interpretation favourable to the existing employees is to be preferred to the one which may cause prejudice to them.

17. At the same time, we are of the view that the applicants would be entitled to the benefit of the provisions of the amended Rule 12(b) only from 1.10.1986 and not from a prior date even though they may have successfully undergone the Drill Instructors Course earlier.

18. In the conspectus of the facts and circumstance both applications are disposed of with the following orders and directions:-

(i) As the applicants have successfully undergone the Drill Instructors Course with first class proficiency certificate, though it was prior to the coming into force of amendment to Rule 12(b) of the Delhi Police (Promotion & Confirmation) Rules, 1980 in 1986, the respondents are directed to bring their names on Promotion List 'A' with effect from 1.10.1986.

(ii) As the applicants have successfully completed the Lower School Course, though it was pursuant to the interim orders passed by this Tribunal, they shall be promoted to the post of Head Constables with effect from the dates of promotion of their juniors.

(iii) The applicants would also be entitled to all consequential benefits.

(iv) The respondents are directed to comply with the above directions within a period of 3 months from the date of receipt of this order.

(v) There will be no order as to costs.

Let a copy of this order be placed in

OA 1103/1989 and OA 1653/1989.

(D.K. CHAKRAVORTY)
ADMINISTRATIVE MEMBER

(P.K. KARTHA)
VICE CHAIRMAN (J)